International Covenant on Civil and Political Rights

Distr.: General
25 April 2018

Original: English

Human Rights Committee

# Concluding observations on the seventh periodic report of Norway*

1. The Committee considered the seventh periodic report submitted by Norway (CCPR/C/NOR/7) at its 3458th and 3459th meetings (CCPR/C/SR.3458 and 3459), held on 14 and 15 March 2018. At its 3479th meeting, held on 29 March 2018, it adopted the following concluding observations.

## A. Introduction

2. The Committee welcomes the submission of the seventh periodic report of Norway through the simplified reporting procedure in response to the list of issues prior to reporting prepared under that procedure (CCPR/C/NOR/QPR/7). It expresses appreciation for the opportunity to renew its constructive dialogue with the State party's delegation on the measures taken during the reporting period to implement the provisions of the Covenant. The Committee thanks the State party for the oral responses provided by the delegation and for the supplementary information provided to it in writing.

## B. Positive aspects

3. The Committee welcomes the following legislative and institutional measures taken by the State party:

(a) The constitutional amendments in 2012 and 2014 to strengthen human rights protection and in particular the adoption of a new human rights catalogue, which reflects many of the rights contained in the Covenant;

(b) The establishment in 2015 of a national human rights institution, which has been accredited with A status by the Global Alliance of National Human Rights Institutions for compliance with the principles relating to the status of national institutions for the promotion and protection of human rights;

(c) The adoption in June 2013 of the Sexual Orientation Anti-Discrimination Act;

(d) The adoption in June 2017 of the Equality and Anti-Discrimination Act.

4. The Committee also welcomes the ratification of, or accession to, the following international instruments by the State party:

(a) The Convention on the Rights of Persons with Disabilities, on 3 June 2013;

(b) The Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, on 27 June 2013.

* Adopted by the Committee at its 122nd session (12 March–6 April 2018).

5. The Committee further welcomes the information provided by the State party concerning instances in which provisions of the Covenant were invoked and applied by the national courts.

## C. Principal matters of concern and recommendations

### Reservations to the Covenant

6. The Committee notes that the State party maintains its reservations to articles 10 (2) (b) and (3), 14 (5) and (7) and 20 (1) of the Covenant (art. 2).

7. **The State party should review the justifications for, and the necessity of, maintaining its reservations to articles 10, 14 and 20 of the Covenant with a view to withdrawing them.**

### Discrimination against persons with an immigrant background

8. The Committee reiterates its concern (CCPR/C/NOR/CO/6) that persons with an immigrant background continue to face discrimination in the employment and housing sectors. In particular, it is concerned at reports that, in 2016, the unemployment rate among persons with an immigrant background was 11.2 per cent, almost three times higher than the general unemployment rate of 4.2 per cent. It is further concerned about reports that persons with an immigrant background face higher rents and more restrictive contractual terms in the housing sector (arts. 2 and 26).

9. **The State party should ensure equal treatment for everyone in its territory, regardless of a person's national or ethnic origin. It should address the high rates of unemployment of persons with an immigrant background through ensuring equal rights to employment and eliminating discriminatory practices in the employment sector. It should evaluate the effectiveness of its strategy on housing and welfare and take measures to eliminate discriminatory practices and barriers, such as higher rents and more restrictive contractual terms, affecting persons with an immigrant background in the housing sector.**

### Ethnic profiling of persons with an immigrant background

10. The Committee is concerned that section 21 of the Immigration Act authorizes the police to stop persons assumed to be foreign nationals, thereby subjecting those with an immigrant background to ethnic profiling by the police (arts. 2, 12, 17 and 26).

11. **The State party should revise the Immigration Act to ensure that its laws clearly prohibit ethnic profiling by the police and prevent disparate treatment on the basis of physical appearance, colour or ethnic or national origin. It should continue to provide all law enforcement personnel with training in order to effectively prevent ethnic profiling.**

### Equality between men and women

12. The Committee reiterates its concern (see CCPR/C/NOR/CO/6, para. 8) that a significant wage gap between men and women persists. While noting the information provided by the State party, including that the new Equality and Anti-Discrimination Act provides stronger protection against discrimination for pregnant women, the Committee is concerned at reports that women with children earn less than men with children (arts. 2, 3 and 26).

13. **The State party should step up its efforts to implement effective measures to eliminate the gender wage gap by addressing differences in pay between men and women for the same work. It should ensure that family life does not have a negative effect on the wages of women.**

**Violence against women and girls**

14. The Committee, while noting the efforts by the State party, reiterates its concern at the continuation of violence against women and girls, including rape, in the State party. It is concerned: (a) by allegations that 1 in 10 women in the State party have been victims of rape and half of those who reported it were under the age of 18; (b) that the lack of free consent is not at the centre of the definition of rape in section 291 of the Penal Code; (c) by alleged significant underreporting of rape and other forms of gender-based violence; (d) by reported societal and legal barriers in accessing justice for rape victims and the low numbers of prosecutions and convictions of rape cases; and (e) by reported higher rates of violence against Sami women, who face difficulties in seeking justice for these crimes due to cultural and linguistic barriers and mistrust of authorities (arts. 2, 3, 7, 24 and 26).

15. **The State party should increase its efforts to prevent and combat all forms of violence against women and girls and, in particular:**

(a) **Proceed with plans to launch a new national plan of action to eliminate violence against women and girls, with a focus on eliminating rape and other forms of sexual violence in the State party, including in the Sami community, in consultation with Sami peoples and other stakeholders;**

(b) **Amend section 291 of the Penal Code to ensure that the lack of free consent is at the centre of the definition of rape;**

(c) **Facilitate the reporting of rape and gender-based violence cases by, inter alia, systematically informing women and girls of their rights and of the existing legal avenues through which they can access resources, services, protection and justice;**

(d) **Strengthen its efforts to raise public awareness of the adverse impact of sexual and gender-based violence. Continue to train judges, prosecutors and law enforcement officials on addressing sexual and gender-based violence and strengthen the investigative capacity of law enforcement for such cases. Ensure all reports are promptly and thoroughly investigated, that perpetrators are brought to justice and that victims have access to full reparations;**

(e) **Investigate further the root causes of higher levels of violence against women in the Sami community. Take effective measures to address these root causes, eliminate cultural and linguistic barriers and build trust between the Sami community and authorities.**

**Hate speech and hate crimes**

16. The Committee, while noting with appreciation the measures taken by the State party, such as section 185 of the Penal Code, and the creation of a designated hate crime investigation unit in the Oslo police district and the Strategy against Hate Speech (2016–2020), remains concerned about the persistence of hate crimes and hate speech, including on the Internet, against Romani people/Tater, Roma, migrants, Muslims, Jews and Sami persons. The Committee is concerned at the lack of systematic registration of cases and collection of comprehensive data on hate crimes and hate speech. It is also concerned at underreporting of hate crimes and criminal hate speech and at the low rates of convictions for lack of evidence (arts. 2, 20 and 26).

17. **The State party should: (a) take effective measures to prevent hate speech and hate crimes in accordance with the Covenant, including by increasing efforts to promote tolerance, ensuring full implementation of the Strategy against Hate Speech (2016–2020) and the creation of hate crime investigation units in all districts; (b) streamline the national registration of reports of hate crimes and hate speech and systematize the regular collection of data on these crimes, including the number of reported cases, investigations launched, prosecutions and convictions; (c) encourage the reporting of hate crimes and criminal hate speech and ensure that these crimes are promptly identified and registered as such; and (d) strengthen the investigation capacity of law enforcement officials on hate crimes and criminal hate speech, including on the Internet, and ensure all cases are systematically investigated, that**

**perpetrators are prosecuted and punished and that appropriate compensation is awarded to the victims.**

**Freedom of religion**

18. The Committee notes with appreciation the recent constitutional amendments, but expresses concern that articles 2, 4 and 16 of the Constitution emphasize Christian values and place the Evangelical Lutheran Church in a position of privilege vis-à-vis other religions, thereby affecting the equal right to freedom of thought, conscience and religion. The Committee is further concerned that freedom of thought, conscience and religion is not included in the human rights chapter of the Constitution (arts. 2 and 18).

19. **The State party should guarantee the freedom of thought, conscience and religion equally to all citizens and should include this right in the human rights chapter of the Constitution, taking into account the Committee's general comment No. 22 (1993) on the right to freedom of thought, conscience and religion.**

**Right to privacy**

20. The Committee is concerned that amendments to the Code of Criminal Procedure and Police Act in 2016 grant broader monitoring and search powers to police, which may be used in a preventative manner to anticipate crime and may lack sufficient safeguards to prevent interference with the right to privacy. It is also concerned at reports about the intrusive use of satellite communications and of an ongoing proposal for a system of bulk data retention and its implications for the right to privacy (art. 17).

21. **The State party should take all the necessary steps to guarantee that its surveillance activities within and outside its territory are in conformity with its obligations under the Covenant, in particular article 17. Specifically, it should take measures to guarantee that any interference in a person's private life should be in conformity with the principles of legality, proportionality and necessity. It should ensure that the collection and use of data on communications take place on the basis of specific and legitimate objectives and that the exact circumstances in which such interference may be authorized and the categories of persons likely to be placed under surveillance are set out in detail in law. It should also ensure the effectiveness and independence of a monitoring system for surveillance activities.**

**Coercive measures in mental health-care institutions**

22. The Committee notes the State party's efforts to reduce the use of coercive measures in mental health-care institutions, in particular through amendments to the Mental Health Care Act in 2017, and the State party's concerns about this issue. The Committee remains concerned at the weak procedural safeguards for patients and the lack of recourse to less intrusive measures as a first resort. It is also concerned at the lack of clarity on the frequency and circumstances surrounding the use of coercive electroconvulsive treatment in different mental health-care institutions, the lack of a requirement that an independent health-care professional will give a second opinion, and that the involuntary administration of this treatment is governed by guidelines and not a formally adopted law (arts. 7, 9, 10 and 17).

23. **The State party should guarantee in law that non-consensual psychiatric treatment may only be applied, if at all, in exceptional cases as a measure of last resort and when absolutely necessary to protect the health or the life of the person concerned, provided that he or she is unable to give consent, and for the shortest possible time under independent review. The State party should promote psychiatric care aimed at preserving the dignity of patients, both adults and minors. It should draw on the study funded by the Research Council of Norway on the current use of coercive measures in mental health care, with a view to ensure compliance with human rights standards. The State party should increase procedural safeguards for patients and stipulate in law the circumstances allowing for the limited use of coercive electroconvulsive treatment.**

**Liberty and security of person and treatment of persons deprived of their liberty**

24. The Committee notes the comprehensive review of prison conditions undertaken by Norway. The Committee is concerned though at the high rates of full exclusions or isolation from many forms of human contact in custodial facilities, which has risen in 2017 to 4,788 cases. It is concerned that there is no set maximum number of days a prisoner can be kept in full exclusion (arts. 7, 9, 10 and 14).

25. **The State party should evaluate the effects of full exclusions with a view to reducing them and use alternative measures whenever possible. It should set a maximum number of days a prisoner can remain in full exclusion in its policy, law and guidelines, in accordance with international standards.**

26. The Committee is concerned by a 2017 report of the Parliamentary Ombudsman, who found that the use of isolation for persons with psychosocial disabilities and the lack of provision of proper health-care services had led to a deterioration in health of these persons (arts. 7, 9, 10 and 14).

27. **The State party should abolish the use of full isolation for persons with mental disabilities and use alternative methods, whenever possible. The State party should ensure the provision of adequate health-care services to persons with psychosocial disabilities in prison.**

**Legal aid**

28. The Committee reiterates its concern (see CCPR/C/NOR/CO/6, para. 6) and notes that, despite its previous recommendation, the means-tested legal aid system continues to fail to take into account in practice the actual circumstances of the applicant and the cost of legal services being sought, and does not provide legal aid in many categories of cases.

29. **The Committee reiterates its previous recommendation that the State party should review its current legal aid scheme and its impact, and make the necessary amendments to this system to ensure that free legal aid is provided in all cases in which the interests of justice so require.**

**Unaccompanied minors**

30. While noting the information provided by the State party indicating that the Child Welfare Act applies to all children in the State party, the Committee is concerned that unaccompanied minors seeking asylum aged between 15 and 18 years are cared for by reception centres with lower levels of care, staffing and accommodation conditions, while other children are cared for by the Child Welfare Services, ensuring higher levels of care. The Committee also expresses deep concern at reports of the high numbers of unaccompanied asylum-seeking minors who are missing from these reception centres and the lack of conclusive information from investigations of these cases (arts. 2, 7, 9 and 13).

31. **The State party should eliminate differential treatment of unaccompanied asylum-seeking minors aged between 15 and 18 and provide them with the same level of care as that provided by the Child Welfare Services. It should investigate and take measures to address the underlying causes of disappearances of unaccompanied asylum-seeking minors from reception centres.**

**Asylum seekers and non-refoulement**

32. The Committee is concerned about the increased restrictions on asylum policies in the State party. The Committee is also concerned that amendments in 2015 and 2017 to the Immigration Act and related circulars have reduced protection for asylum seekers, for example by allowing asylum applications to be rejected without consideration of their merits, on the grounds that an asylum seeker has entered the State party after having stayed in a country in which they were not persecuted. The Committee is further concerned that the previously legislated requirement that asylum seekers be given access to asylum procedures in the return country has been eliminated, creating the risk of chain refoulement (arts. 6, 7 and 13).

33. **The State party should amend the Immigration Act to ensure greater protection of asylum seekers from refoulement and chain refoulement, in accordance with international standards. It should consider all asylum applications on the basis of their merits and ensure an in-country appeals system for rejected applications. It should respect the principle of non-refoulement by ensuring that asylum seekers are not extradited, deported or expelled to a country in which there are substantial grounds for believing that there is a real risk of irreparable harm, such as that set out in articles 6 and 7 of the Covenant.**

**Statelessness**

34. The Committee is concerned at the lack of a clear legal definition of stateless persons in legislation and the lack of sufficient safeguards to prevent statelessness among all children born in the State party (arts. 2, 24 and 26).

35. **The State party should include a legal definition of stateless persons in its legislation, and establish legal and other safeguards to ensure that all children born in the State party are entitled to a nationality at birth, even if it is not the nationality of the State party, as stated in general comment No. 17 (1989) on the rights of the child. It should also provide for a specific procedure to determine statelessness, in line with international standards.**

**Rights of indigenous people**

36. The Committee is concerned that: (a) one in four Sami-speaking men and one in three Sami-speaking women have reported facing discrimination; (b) the right to effective participation through consultations to obtain free, prior and informed consent is not yet granted in law or ensured in practice; (c) the Nordic Sami Convention has not yet been adopted; (d) a strong legislative framework ensuring land and resource rights to Sami peoples, including fishing and reindeer husbandry, is lacking; (e) the Government has not yet followed up on the proposals of the Sami Rights Committee from 2007 on land and resource rights outside of Finnmark; and (f) Sami children are not able to obtain kindergarten instruction in the Sami languages in all regions (arts. 1, 2, 14, 26 and 27).

37. **The State party should:**

(a) **Step up its efforts to combat stereotypical and discriminatory attitudes and discriminatory practices towards Sami individuals and the Sami peoples;**

(b) **Ensure meaningful consultation with the Sami peoples in practice and adopt a law for consultations with a view to obtaining their free, prior and informed consent, in consultation with them;**

(c) **Address any outstanding concerns and facilitate the speedy adoption of the Nordic Sami Convention;**

(d) **Enhance the legal framework on Sami land, fishing and reindeer rights, ensuring in particular that fishing rights are recognized by law;**

(e) **Ensure effective and speedy follow-up to the proposals of the Sami Rights Committee of 2007 regarding land and resource rights in Sami areas outside of Finnmark;**

(f) **Increase the recruitment and training of Sami language teachers and increase the availability of Sami language instruction for Sami children in kindergarten in all regions.**

## D. Dissemination of information relating to the Covenant

38. **The State party should widely disseminate the Covenant, the two Optional Protocols to the Covenant, its seventh periodic report and the present concluding observations with a view to raising awareness of the rights enshrined in the Covenant among the judicial, legislative and administrative authorities, civil society and non-**

**governmental organizations operating in the country, and the general public. The State party should ensure that the report and the present concluding observations are translated into its official languages.**

39. **In accordance with rule 71, paragraph 5, of the Committee's rules of procedure, the State party is requested to provide, by 6 April 2020, information on the implementation of the recommendations made by the Committee in paragraphs 15 (violence against women and girls), 33 (asylum seekers and non-refoulement) and 37 (rights of indigenous peoples) above.**

40. **The Committee requests the State party to submit its next periodic report by 6 April 2024. Given that the State party has accepted the simplified reporting procedure, the Committee will transmit to it a list of issues prior to the submission of the report in due course. The State party's replies to that list will constitute its eighth periodic report. In accordance with General Assembly resolution 68/268, the word limit for the report is 21,200 words.**